the word "muster" by the court in the instant case, which no doubt seems at first blush to be extremely technical, is nevertheless sustained by a great number of adjudged cases both in this country and in England. *Methuen* v. *Martin*, Sayer, 107; *Grant* v. *Gould*, 2 H. Bl. 103; *Wolton* v. *Gavin*, 16 Q. B. 48; *Bamfield* v. *Abbot*, 9 Law Rep. 510; *Houston* v. *Moore*, 5 Wheat. (U. S.) 20. Certainly such an interpretation carries out the probable intent of the legislature in passing the Act. Moreover, it scarcely can be contended that the result reached by the court was not an equitable one.

CARRIERS—CONTRIBUTORY NEGLIGENCE OF PASSENGER IN FAILING TO WARN TAXI DRIVER OF IMPENDING DANGER.—While the plaintiff was riding in one of the defendants cabs the driver negligently came into collision with another car. According to the testimony of the plaintiff she saw the other car approaching on an intersecting street when both cars were one hundred feet from the intersection but failed to warn the driver of the taxicab. The trial court refused to give a charge on contributory negligence. *Held*, that there was no evidence sufficient to support a charge of contributory negligence. A taxicab company is a common carrier of passengers, and "a passenger has the right to rely upon the presumption that the carrier is familiar with the dangers to be apprehended and will use all necessary skill and vigilance to avoid them." *McKeller* v. *Yellow Cab Co., Inc.*, (Minn., 1921), 181 N. W. 348.

A taxicab company is generally held to be a common carrier, the reason being that it holds itself out to serve all who apply for transportation at a fixed charge. *Carlton* v. *Boudar*, 118 Va. 521; *Van Hoeffen* v. *Columbia Taxicab Co.*, 179 Mo. App. 591. Hence, they are bound to do all that human care and foresight can reasonably do, consistent with the character and mode of conveyance adopted, to prevent accidents and injuries to passengers carried by them. *Boland* v. *Gay*, 201 Ill. App. 351. Even though a negligent act on the part of the passenger which proximately contributes to the injury may preclude his recovery from the carrier, it is generally held that mere failure to act even in the face of imminent danger will not. *Grand Rapids & Indiana R. Co.* v. *Ellison*, 117 Ind. 234. Thus, where a passenger on a railroad saw a train approaching on an intersecting road, his failure to warn the engineer by pulling the bell cord was held not to preclude his recovery. *Grand Rapids & Indiana R. Co.* v. *Ellison*, *supra*. And a passenger on a bus is not guilty of contributory negligence in failing to warn the driver of excessive speed. *Harmon* v. *Barber*, 247 Fed. 1. And a passenger on a train is not bound to notify the conductor of the presence of an iron frame which is likely to fall and injure him. *Diffenderfer* v. *Penn. R. Co.*, 67 Penn. Super. Ct. Rep. 187. The law correctly draws a distinction between the duty of the passenger in a taxicab and the duty of a guest in an automobile to warn the driver of impending perils. As to the duty of the guest, see *Howe* v. *Corey*, (Wis., 1920), 179 N. W. 791, 19 MICH. L. REV. 433.

CARRIERS—DEGREE OF CARE NECESSARY IN KEEPING AISLES FREE.—Plaintiff had been a passenger in a Pullman chair car and sued for an injury received from stumbling over a footstool in the aisle. He was not allowed to recover

since it was *held,* that a railroad company is only liable for the failure to exercise ordinary care in seeing that the movable hassocks provided in a chair car do not project into the aisle. *Bassell* v. *Hines,* (C. C. A., 6th Circuit, December, 1920), 269 Fed. 231.

In general the common carrier of passengers is liable for the failure to exercise the highest degree of care and prudence consistent with the exercise of its business. *Memphis St. Ry. Co.* v. *Bobo,* 232 Fed. 708; *Meyer* v. *St. Louis Co.,* 54 Fed. 116. The basis of this seems to be that when the passenger delivers himself into the custody of the carrier, he submits himself to his care and relies upon the carrier's protection from all the hazards of the journey. *Indianapolis Co.* v. *Horst,* 93 U. S. 291, 23 L. Ed. 898. Since the basis of this rule is protection of the passenger from the dangers peculiarly incident to the instrumentality of transportation, the reason for the rule ceases when questions arise as to liability for the trifling dangers that are found upon the railroad car in the same way that they might be present in the walks of every-day life. Stumbling over a hassock which is under the control of the passenger takes away the responsibility that is present in the case of those elements of travel that are within the sole control and management of the carrier. Hence the general weight of authority supports the principal case in holding that only ordinary care need be exercised by the carrier in the cases of obstructions placed in the aisle and within the control of passengers. Thus, baggage left in the aisle and causing injury places no liability on the carrier unless there has been actual notice to the carrier's servants of its presence there, or it has been there such a time as to imply constructive notice. *Burns* v. *Penn. R. Co.,* 233 Pa. 304; *Palmer* v. *Penn. Co.,* 111 N. Y. 488, 18 N. E. 859; *Atkinson* v. *Dean,* 198 Ala. 262, 73 So. 479. On the other hand, if it appears that the carrier has had time to notice the presence of the baggage, as in *Chicago and A. R. Ry. Co.* v. *Buckmaster,* 74 Ill. App. 575, where a bag was left in the aisle two hours, or where the porter of the car has had actual notice of the presence of the bag in the aisle, the carrier has been held liable for the injuries resulting therefrom. *Levien* v. *Webb,* 61 N. Y. Supp. 1113. In only a few cases are there any intimations of a different rule from that in the principal case. In *Heineke* v. *Chi. Ry. Co.,* 279 Ill. 210, 116 N. E. 761, a higher degree of care seems necessarily implied from the statement of the court to the effect that if the carrier *might* have known of the presence of the baggage, it would be liable. And in *Pitcher* v. *Old Colony Co.,* 196 Mass. 69, 81 N. E. 876, the statement of the trial court that the carrier must exercise "the highest degree of care consistent with the practical carrying on of its business" was not criticised. For a collection of cases of this type, see 13 L. R. A. (N. S.), 482, and 43 L. R. A. (N. S.) 1050.

CARRIERS—RATE REGULATION: FIXING RATES ON SINGLE CLASS OF COMMODITIES—Suit to restrain the railroad from receiving any other compensation for carrying certain classes of property than that specified in the order of the State Railroad Commission. The railroad claims that the order did not allow sufficient revenue to reimburse it on such commodities, and yield a fair return. Plaintiff claims that revenue from whole intrastate business of de-